

### **REMARKS**

This Application has been carefully reviewed in light of the Final Office Action mailed July 1, 2005. At the time of the Final Office Action, Claims 1, 4-18, 29, 32, and 80-141 were pending in this Application, and Claims 1, 4-10, 11-18, 29, 32, 81-91, 93-96, 98-100, 112, 117, 136-141 appear to be allowable over the prior art of record. Claims 10, 115, 117-121, 133, and 136-141 were objected to, and Claims 80, 92, 97, 101-111, 113-116, and 118-135 were rejected.

In this Response, Applicants have cancelled Claims 116, 121, 130-131, and 135-141 without prejudice or disclaimer. Applicants have amended Claims 10, 80, 87, 92, 102-111, 113-115, 117-120, 122-129, and 132-134 to further define various features of Applicants' invention. Applicants respectfully request reconsideration and favorable action in this case.

#### **Claim Objections**

Claim 10 was objected to due to the recitation of "orgasm" which should have been "organism." Applicants have amended Claim 10 to overcome this objection and respectfully request full allowance of the Claim 10. (Applicants have similarly amended claim 87 to remedy the same typographical error.)

#### **Rejections under 35 U.S.C. § 112, Second Paragraph**

Claims 80, 92, 97, 101-111, 113-116, and 118-135 were rejected by the Examiner under 35 U.S.C. § 112, second paragraph, as being indefinite and failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants amend Claims 80, 92, 102-111, 113-115, 118-120, 122-129, and 132-134 (Claims 116, 121, 130-131, and 135 are cancelled in the Response) to overcome these rejections and respectfully request full allowance of Claims 80, 92, 102-111, 113-115, 118-120, 122-129, and 132-134 as amended.

Claims 80 and 92 (Claims 97, 101, 111, and 129 dependent thereon) were rejected as being indefinite in the recitation of "a nucleic acid encoding a upc2-1 allele." Applicants

amend Claims 80 and 92 to overcome these rejections and respectfully request full allowance of amended Claims 80 and 92 (and Claims 97, 101, 111, and 129 dependent thereon).

Claims 102-111 were rejected as being indefinite because “it is unclear if the unicellular organisms of claims 102-111 have, in addition to the exogenous nucleic acids and promoters already present in them, a vector comprising the same exogenous nucleic acids and promoters.” Applicants amend Claims 102-111 to overcome these rejections and respectfully request full allowance of amended Claims 102-111.

Claims 113-116 and 118-121 were rejected as being indefinite in the recitation of “organism of claim 1 further comprising a second/third/fourth enhancer . . . activation of the second third fourth nucleic acid.” Applicants amend Claims 113-115 and 118-120 (Claims 116 and 121 are cancelled in this Response) to overcome these rejections and respectfully request full allowance of amended Claims 113-115 and 118-120.

Claims 122-135 were rejected as being indefinite in the recitation of “multicellular organism.” Applicants amend claims 122-129 and 132-134 (Claims 130-131 and 135 are cancelled in the Response) to overcome these rejections and respectfully request full allowance of amended Claims 122-129 and 132-134.

Claims 130-131 were rejected as being indefinite in the recitation of “wherein at least one exogenous nucleic acid comprises an ATG translation initiation codon . . . .” Applicants have cancelled claims 130-131 in this Response.

Claims 133 and 135 were rejected as being indefinite in the recitation of “organism of claim 1 wherein the single exogenous polynucleotide . . . .” Applicants have amended claims 133 (Claim 135 is cancelled in this Response) to overcome these rejections and respectfully request full allowance of Claim 133.

#### **Double Patenting Rejection**

Claims 115, 117-121, 133, and 136-141 were objected to as being substantial duplicates of other claims. Applicants have cancelled Claims 121 and 135-141, and Applicants have amended Claims 115, 117-120, and 133. Applicants submit that Claims 115, 117-120, and 133 are in condition for full allowance, and respectfully requests the same.

**CONCLUSION**

Applicants have now made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicants respectfully request reconsideration of Claims 10, 80, 87, 92, 102-111, 113-115, 117-120, 122-129, and 132-134 as amended.

Applicants enclose a Request for Continued Examination (RCE), and a check in the amount of \$395.00 for the RCE fee. Applicants also enclose a Petition for Three Month Extension of Time, and a check in the amount of \$510.00 for the extension fee. Applicants believe there are no additional fees due, however, the Commissioner is hereby authorized to charge any fees or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P. in order to effectuate this filing.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2580.

Respectfully submitted,  
BAKER BOTTS L.L.P.  
Attorney for Applicants



Michelle M. LeCointe  
Reg. No. 46,861

Date: 12/13/05

**SEND CORRESPONDENCE TO:**  
**CUSTOMER ACCOUNT NO. 31625**  
512.322.2580  
512.322.8383 (fax)